

Draft Report to CPAC on LD 1045
12/15/03

Background

The Legislature directed the Community Preservation Advisory Committee to review LD 1045 and make recommendation back to the Natural Resources Committee.

To do so, CPAC appointed a subcommittee made up of three of its legislative members (Rep Janet McLaughlin, Rep Ed Suslovic, and Rep David Tobin) and invited representatives of the environmental community (Jenn Burns, Maine Audubon), development community (Ginger Davis, Maine Real Estate Developers Association), regional council (John Maloney, Androscoggin County Council of Governments), municipalities (Maureen O'Meara, Cape Elizabeth Town Planner and Jeff Austin, Maine Municipal Association – Peggy Daigle, Town Manager of Houlton and member of MMA's Legislative Policy Committee attended the second meeting on behalf of MMA) to meet to review the situation and prepare recommendations for CPAC. Most of the members met twice to prepare this report and recommendations.

The subcommittee explored the State Planning Office's:

- trends in grant awards, requests for review, and staff turn-over;
- recent changes in review management procedures and performance;
- recent changes in communications with towns and opportunities to improve them;
- plans to update submission and criteria review rules and supporting technical assistance materials;
- need to improve coordination among state agencies in response to recent legislative adjustments to the Planning and Land Use Regulation Act; and
- need to modify and clarify statutes in the Act to reduce administrative demand on staff time.

Findings

1. Prominent focus on smart growth and on state investment policy has increased demands on the State Planning Office's Land Use Team, taking resources from traditional tasks like reviewing comprehensive plans.
2. In addition, staff turnover on the Land Use Team over recent years has been significant, creating vacancies and considerable time spent in hiring and training new employees.
3. The one-time appropriation of \$1.8 million dollars significantly increased the number of planning assistance and implementation grants the Office awarded, creating a temporary increase in the number of plans being submitted for review. Many of these planning projects have been completed or are nearing completion and the number of new contracts over the next two years will decline given cuts in the grant program associated with managing state's budget shortfalls.

4. New administrative systems have been put in place and improvements in turn-around time on reviews are being made (since March 2003, the average time to respond to requests for reviews has been reduced by approximately 70%).
5. Significant “retooling” of the program through rulemaking is underway, including creating the Comprehensive Plan Update Handbook, partnering with state agencies to revamp data packages, updating and revising the submission and review criteria rules to clarify expectations and simplify the administrative burden of managing the review process, and updating the Comprehensive Planning Manual.
6. Coordination with state agencies in directing state growth-related capital investments, siting office buildings and new schools, and awarding Municipal Investment Trust Funds and other discretionary grants has created additional demands on Team time, particularly given the lack of clarity in the Planning and Land Use Regulation Act. Finalization of geographic information system data layers, as well as standardization of requirements for grant submissions and responses to solicitations to site state buildings would provide substantial time savings for staff.
7. There will always be a certain amount of tension between state and local interests in meeting the goals of the Planning and Land Use Regulation Act.
8. While improved efficiencies in the system can be made through the improvements and adjustments noted above, additional resources may be needed to address all problems in the system if it is to function at an optimum level of expectation.

Recommendations

Administrative Systems (FY 04)

1. Modify administrative system to provide a receipt when responses to findings of inconsistency are submitted for further review and document requests to adjust or slow down the process and adjust the schedule of dates accordingly. .
2. Post a list of plans currently under review on the web page, including date of receipt of complete submissions, due date for comments, due date for findings, and date of receipt of responses to findings of inconsistency.
3. Encourage the Governor to direct state agencies to work together to prepare standardized submission requirements in response to solicitations for state investments (certification of date of adoption of current plans, consistency, and sections of local programs that support implementation of comprehensive plans).

Amend Statute (FY 04)

4. Amend the Act to clarify who and how consistency of plans and ordinances is determined with respect to state investments and compliance with local land use ordinances. Adjust wording throughout the statute to clarify that the term “under this subchapter” means consistency with the procedures, goals and guidelines of the subchapter (an alternative to defining the term). Provide a sunset provision on consistency findings if a plan is not amended or updated. Clarify that floodplain ordinances that meet the state model are exempt from consistency requirements under the § 4314 (Transition Savings clause). Reaffirm that financial aid

contracts are allowed to extend beyond a single fiscal year (recommend adoption as emergency legislation to allow for rollover of contracts that will otherwise expire on June 30th).

Rulemaking (FY 04/FY05)

5. Establish clear expectations and submission and review criteria in the new rules, acknowledging the tension between a one size fits all approach and the need for flexibility that reflects variation among communities; allows for modification based on changes in knowledge; and articulation of the expectation of a raised bar for plan updates.
6. Prepare rules to guide the financial assistance program.

Technical Assistance (FY 05)

7. If grants are awarded to more than one town in a region, consider holding a single start-up meeting rather than one for each town. Alternatively, consider holding 1-2 start up meetings per year and invite members of select boards, councils, planning boards, and community and economic development officials in addition to comprehensive planning committee members.
8. Strive to meet with towns that are preparing comprehensive plans at least three times, with at least one meeting occurring after they have completed their draft plan, but before they finalize and submit it for review.
9. Review existing education materials about what the law means and the distinction between consistency and acceptance of a plan, prepare new materials, prepare a timeline of expectations. Continue to post educational materials to the web page. Change the focus of staff time from reviews for consistency to implementation of plans, though recognize concerns about the limitation of funding staff resources.
10. Make sure that towns are aware of the opportunity for and terms of “exemption” from requirement to designate growth areas. Add specific statements to the annual grant program statement and application forms; include discussion of the issue in start up presentations; and conduct outreach on the subject to the consultant community.
11. Continue to reiterate the expectation of a raised bar for plan updates, including adding a statement to this effect in contracts for financial assistance.

Continuing Discussion (FY05 and 06)

12. The Community Preservation Advisory Committee, or a subcommittee, should continue to meet periodically to discuss the broader underlying issues associated with the Program, its staffing, and the Act. These discussions should continue to recognize that there will always be a certain amount of tension between state and local interests in meeting the goals of the Planning and Land Use Regulation Act and that further adjustments in the system envisioned in the Act may be appropriated. The Committee should also monitor resources that are allocated for the Program.